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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/803,905	03/13/2001	William Martin Snelgrove	13222.00037	8933
27160	7590	10/14/2005		
KATTEN MUCHIN ROSENMAN LLP 525 WEST MONROE STREET CHICAGO, IL 60661-3693			EXAMINER NGUYEN, STEVEN H D	
			ART UNIT 2665	PAPER NUMBER

DATE MAILED: 10/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/803,905

Applicant(s)

SNELGROVE ET AL.

Examiner

Steven HD Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 27-105 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 27-105 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 7/25/05.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

2. Claims 27-48 and 52-105 are rejected under 35 U.S.C. 103(a) as being unpatentable over Owen (WO 9807282) in view of O'Brien (WO 9729443).

Regarding claims 27-30, 33, 36-38, 41-42, 52-55, 58, 61-63, 69-72, 75, 78-80, 86-90, 93 and 96-98, Owen discloses a telecommunication system comprising a first user interface (Fig 3, Ref 1101) and a second user interface (Fig 3, Ref 1102) interconnected by a telecommunications network (Fig 3, Ref 1100); said first user interface connected to at least one computer processor and electronic memory means for executing a first set interface's requirements for communicating with said second user programming code that determines said first user interface (Fig 3, Ref 1140); said at least one computer processor and electronic memory means operable to

execute a third set of programming code that manages negotiations between said first set of programming code and said second set of programming code, said negotiations for determining terms of communication between said first user interface and said second user interface through said network, said negotiations based on a trusted negotiating discipline (Fig 9 the program codes negotiates a connection between the first and second user interface based on a trusted negotiating profile, See Page 16, lines 3-12, Page 18, lines 20-30, Page 22, lines 7-16, Page 31, line 25 to Page 32, line 12, Page 40, lines 12-30 and Page 3, line 17 to Page 7, line 24) is selectable by a user of said first user interface from a plurality of negotiating disciplines (Fig 7) and a single network software agent (Fig 9). However, Owen fails to disclose said telecommunication network connected to said at least one computer processor and electronic memory means for executing a second set of programming code that determines available network resources of said network. in the same field of endeavor, O'Brien discloses a system for telecommunication network connected to said at least one computer processor and electronic memory means for executing a second set of programming code that determines available network resources includes presently available network resource of said network to be use in the negotiation with a user interface and sever based on the trusted rule and selectable by a user of said first user interface from a plurality of negotiating disciplines (Fig 5, Ref 51, 52, Page 2, lines 8-24); requirements include the available hardware resources of said first user interface (Page 2, line 1, bandwidth); a single network software agent (Fig 5) and the available hardware resources of said requirements second user interface for executing application ((Page 2, line 1, bandwidth requires for executing the application on the server).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to apply a method and system for determining the network resource for using in the negotiating between the program codes as disclosed by O'brien into the system and method of Owen. The motivation would have been to increase the services for network and improve the quality of signal.

Regarding claims 31, 56, 73, 91, Owen discloses said application comprises voice telephony (Page 1, lines 18-25).

Regarding claims 40, Owen discloses said second user interface is connected to a computer processor and an electronic memory means for executing a fourth set of programming code that determines said second user interface's requirements for communicating with said first user interface; and said third set of programming code for further managing said negotiations so as to include said fourth set of programming code (Fig 9).

Regarding claims 43, 45, 65, 82, 100, Owen discloses said communication comprises voice telephony (Page 1, lines 18-25).

Regarding claims 46, 66, 83, 101, Owen discloses said network comprises an ATM network (Page 10, lines 12-18).

Regarding claims 32, 44, 57, 74, 92, Owen and O'brien fail to disclose requirements include the costs that are to be assessed first user interface during said communication. However, the examiner takes an official noticed that a method and advantage for the requirement includes a cost for negotiating is well known and expected in the art at the time of invention was made. Therefore, it would have been obvious to one of ordinary skill in the art to implement a

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cost in the requirement of the request during communication into a system of Owen and O'brien.

The motivation would have been to provide a lowest cost communication.

Regarding claims 34, 59, 76, 94, Owen and O'brien fail to disclose said available network resources include a cost of the network resources to be consumed during said communication. However, the examiner takes an official noticed that a method and advantage for determining a total cost for communicating between the users is well known and expected in the art at the time of invention was made. Therefore, it would have been obvious to one of ordinary skill in the art to implement a total cost for communicating between the users into a system of Owen and O'brien. The motivation would have been to provide a customer with a billing on the fly.

Regarding claims 35, 60, 77, 95, Owen and O'brien fail to disclose a prediction of network usage during said communication. However, the examiner takes an official noticed that a method and advantage for a prediction of network usage during said communication is well known and expected in the art at the time of invention was made. Therefore, it would have been obvious to one of ordinary skill in the art to implement it into the system of Owen and O'brien. The motivation would have been to prevent a congestion such as an overbook.

Regarding claims 39, 64, 81, 99, Owen and O'brien fails to disclose set programming code is implemented as multiple network software agents, each network software agent being respective to a different telecommunication service provider. However, the examiner takes an official noticed that a method and advantage for second set programming code is implemented as multiple network software agents, each network software agent being respective to a different telecommunication service provider are well known and expected in the art at the time of

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invention was made. Therefore, it would have been obvious to one of ordinary skill in the art to implement it into the system of Owen and O'brien. The motivation would have been to reduce cost for user.

Regarding claims 47, 67, 84, 102, Owen and O'brien fail to disclose said negotiating discipline includes at least one of a round robin, bid-and-ask, bluffing, poker and a reverse auction. However, the examiner takes an official noticed that a method and advantage for using at least one of a round robin, bid-and-ask, bluffing, poker and a reverse auction in the negotiating process is well known and expected in the art. Therefore, it would have been obvious to one of ordinary skill in the art to implement it into the system of Owen and O'brien. The motivation would have been to reduce cost for user.

Regarding claims 48, 68, 85, 103, Owen fails to disclose said negotiating discipline terminates said negotiation if said negotiations fail to reach an agreement within a predetermined period of time (Fig 7 and 8).

Regarding claim 104, Owen discloses said negotiation comprises initiating said communication (Page 18, lines 20-29 and Fig 12).

Regarding claim 105, Owen and O'brien fail to fully disclose said communication is ongoing and said negotiation is for modifying terms of an said existing communication. However, the an examiner takes an office notice that this method is well known and expected in the art for renegotiating the parameters during the communication between the first and second users. The motivation would have been to support multimedia network between the users.

3. Claims 49-51 rejected under 35 U.S.C. 103(a) as being unpatentable over Gell (USP 6577858) in view of Owen (WO 9807282).

Regarding claim 49, Gell discloses a computer-implemented method for negotiating terms of communication between a first user interface (Fig 7, Ref 12) and a second user interface (Fig 7, Ref 12) connected by a telecommunications network (Fig 7, Ref 60), said method comprising the steps of receiving, from a first set of programming code associated with said first user interface, an offer for said terms offer including said of communication, said first user interface's first user interface's requirements for communicating with said second user interface through said network (Fig 17, Receive codes, See col. 17, lines 1-22); verifying said first user interface's offer conforms with a trusted negotiation discipline; presenting said first user interface's offer to a second set of programming code associated with said network if said first user interface's offer conforms with said discipline (See col. 17, lines 29-45); receiving from said second set of programming code, another offer for said terms of communication, said another offer including at least said network's available resources for said communication, and including a modification of said first user receiving, from said second set of interface's offer; returning said another offer to said first set of programming code discipline; said another offer conforms with said repeating the foregoing steps if said offers conform with said discipline; and (Col. 17, lines 47-65). However, Gell fails to discloses an counter offer. In the same field of endeavor, Owen discloses a method and system for terminating the offer or counteroffer fails to meet the requirement and notifying the offer or counter offer to the first and second program code (See Fig 8 and 9).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to apply a method and system for terminating the offer or counteroffer fails to meet the requirement and notifying the offer or counter offer to the first and second program

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code as disclosed by Owen into a system and method of Gell. The motivation would have been to improve the throughput of the network.

Regarding claim 50, Gell discloses trusted negotiating discipline first user interface from a plurality selectable by a user of said of negotiating disciplines (col. 17, lines 17-4).

Regarding claim 51, Gell discloses said requirements include the available hardware resource (Col. 17, lines 29-47, price per byte, frame, packet).

Response to Arguments

4. Applicant's arguments with respect to claims 27-105 have been considered but are moot in view of the new ground(s) of rejection.

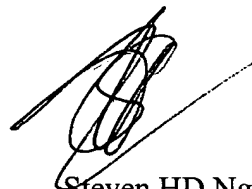
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven HD Nguyen whose telephone number is (571) 272-3159. The examiner can normally be reached on 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy D. Vu can be reached on (571) 272-3155. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Steven HD Nguyen', is written over a horizontal line.

Steven HD Nguyen
Primary Examiner
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10/10/05